## DIVISION OF TAX APPEALS

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In the Matter of the Petition

of

CAPITAL DISTRICT PARTNERS

ORDER

DTA NO. 812789

for Revision of a Determination or for Refund of Tax on Gains Derived from Certain Real Property Transfers under Article 31-B of the Tax Law.

Tax Law.

A determination was issued in this matter on October 19, 1995 by Administrative Law Judge Frank W. Barrie, and petitioner, by its representative, filed an exception with the Tax Appeals Tribunal on or about November 17, 1995. On January 18, 1996, petitioner filed a motion with the Division of Tax Appeals for an order granting petitioner leave to enlarge the record.

Effective November 1, 1995, the Tax Appeals Tribunal promulgated certain new Rules of Practice and Procedure including 20 NYCRR 3000.16(b), "Motions to Reopen Record or for Reargument", which provides, in pertinent part, that: "[a]n administrative law judge shall have no power to grant a motion made pursuant to this section after the filing of an exception with the tax appeals tribunal" (emphasis added).

Although petitioner has designated its motion as one to enlarge the record, it is clearly a motion to reopen the record and is hereby denied based upon the above-cited regulation.

Furthermore, even if petitioner's motion was timely made, there is no basis to reopen the record in this matter (<u>see</u>, <u>Matter of Trieu</u>, Tax Appeals Tribunal, December 30, 1993, <u>confirmed</u> \_\_\_\_ AD2d \_\_\_\_, 634 NYS2d 878).

DATED: Troy, New York March 7, 1996

/s/ Frank W. Barrie

ADMINISTRATIVE LAW JUDGE